Supreme Court, U. S.
FILED
DEC 17 1976
MICHAEL RODAK, JR., CLERK

IN THE

SUPREME COURT OF THE UNITED STATES

October Term, 1976

No. 76-833

CHARLES G. MORROW, Petitioner

vs.

GREYHOUND LINES INC., Respondent

PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT

Charles G. Morrow
Petitioner, Pro se
P. O. Box 13041
Philadelphia, Penna. 19101

TABLE OF CONTENTS

	Page
Opinions Below.....	1
Jurisdiction.....	2
Questions Presented For Review.....	2
I. Was Petitioner Denied Due Process Of Law On Several Grounds?.....	2
II. Did The Court Address Itself To The Issues At Hand, And Did The Court Leave ... Questions Unanswered?.....	2
III. Did The Court State That Its Judgement Was Inconclusive And Was The Judgement Inconclusive?.....	3
IV. Were The Civil Rights Of Witnesses Violated When They Were Deprived Of Their Right To Give Testimony?.....	3
Constitutional Provisions Involved.....	3
Statuatory Provisions Involved.....	3
Cases Cited.....	7
Authorities Cited.....	7
Statement Of The Case.....	8
Argument For Granting Cirtiorai	
Reason I.....	12
Reason II.....	15

	Page
Reason III.....	19
Reason IV.....	21
Conclusion.....	22
Appendix	
Order Staying Mandate.....	A1
Denial Of Rehearing.....	A2
Judgement Of Court OfAppeals.....	A4
Judgement Of District Court.....	A6
Final Pre-Trial Order.....	A7
Letter Concerning Amicus Curiae..	A10
Letter Concerning Amicus Curiae..	A12
Affidavit Of Expert Witness.....	A13
Hospital Record Of Petitioner....	A14
Letter From Court Explaining Rules Governing Amicus Curiae	A15
Defendants Conditions For Purchase And Use Of Ameripass In 1974...	A18
Defendant's Conditions For Purchase And Use Of Ameripass On September 9, 1975.....	A18
Excerpts From Court Records And Proceedings.....	A19

IN THE

SUPREME COURT OF THE UNITED STATES

October Term, 1976

No. 76-833

CHARLES G. MORROW, Petitioner

vs.

GREYHOUND LINES, INC., Respondent

PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT

Petitioner respectfully prays that a writ of certiorari issue to review the judgement of the Third Circuit entered in the above entitled case on October 19, 1976 affirming a judgement previously entered in the United States District Court for the Eastern District of Pennsylvania.

JUDGEMENT BELOW

The judgement of the Court of Appeals is set out in the Appendix p. 4 . The judgement of the District Court is set out in the Appendix p. 6. The District Court wrote no opinion but granted a directed verdict on Defendant's Rule 50(a) motion, dismissing Petitioner's charge of discrimination brought under Section 316(d) U.S.C. 49.

The Petitioner's second charge , breach of contract, a pendant count brought under Federal Rules of Civil Procedure Number 18, was dismissed without prejudice. The Court stated that this was done on agreement of both parties and had the approval of Petitioner. Neither Court below wrote an opinion, but the district Court did discuss some of its reasoning for its judgement.

JURISDICTION

The judgement of the Court of Appeals was entered on October 19, 1976, A4. A timely petition for rehearing, IN BANC, was denied on November 18, 1976, A2. The order staying issuance of mandate was granted on November 26, 1976, p.A1. The jurisdiction of this Court is invoked under Section 1254(1), Title 28, United States Code.

QUESTION PRESENTED FOR REVIEW

1. WAS PETITIONER DENIED DUE PROCESS OF LAW ON SEVERAL GROUNDS?
2. DID THE COURT ADDRESS ITSELF TO THE ISSUES AT HAND, AND DID THE COURT LEAVE QUESTIONS UNANSWERED?

3. DID THE COURT STATE THAT ITS JUDGEMENT WAS INCONCLUSIVE, AND WAS THE JUDGEMENT INCONCLUSIVE?
4. WERE THE CIVIL RIGHTS OF WITNESSES VIOLATED WHEN THEY WERE DEPRIVED OF THEIR RIGHT TO GIVE TESTIMONY?

CONSTITUTIONAL PROVISIONS INVOLVED

The Fifth Amendment to the Constitution of the United States provides in pertinent part as follows:

"nor shall any person be deprived of life, liberty, or property, without due process of law..."

STATUTORY PROVISIONS INVOLVED

Section 316(d) U.S.C. 49--"... It shall be unlawful for any common carrier by motor vehicle engaged in interstate...commerce to make, give, or cause any undue or unreasonable preference of advantage to any particular person,... or description of traffic, in any respect whatsoever, or to subject any particular person,...or description of traffic to any unjust discrimination or any unreasonable prejudice or disadvantage in any respect whatsoever;.....pp. 1.16,A23,A22

Section 1374(b) U.S.C. 49--No air carrier shall make, give, or cause any undue or unreasonable preference or advantage to any particular person....., or description of traffic... in any respect whatsoever or subject any particular person,....or description of traffic.. to any unjust discrimination or any undue or unreasonable prejudice of disadvantage in any respect whatsoever." :··· pp. 15,16,18,19,A23

Section 1985(2) U.S.C. 42--"Obstructing justice; intimidating party, witness.....If two or more persons in any State or Territory conspire to deter.....any party or witness in any court of the United States from attending such court, or from testifying to any matter pending therein, freely, fully and truthfully,....., or if two or more persons conspire for the purpose of, impeding, hindering, obstructing, or defeating in any manner, the due course of justice....., with intent to deny to any citizen the equal protection of the laws....., in any case of conspiracy set forth in this section, if one or more persons, engaged therein do, or cause

to be done any act in any act in furtherance of the object of such conspiracy, whereby another is injured in his person or property, or deprived of having and exercising any right or privilege of a citizen of the United States, the party injured of deprived may have an action for the recovery of damages, occasioned by such injury or deprivation, against any one or more of the conspirators"..21

Section 1986 U.S.C. 42--action for neglect to prevent; Every person who having knowledge that any wrongs conspired to be done, and mentioned in 1985 of this title, are about to be committed, and having power to prevent or aid in preventing the commission....., neglects or refuses to do, if such wrongful act be committed, shall be liable to the party injured, ..., for all damages caused by wrongful act, which such person by reasonable diligence could have prevented; and such damages may be recovered in an action···; and any number of persons guilty of such wrongful neglect,

or refusal may be joined as defendants in the action.....p.21

Section 241 U.S.C. 18
CONSPIRACY AGAINST RIGHTS OF CITIZENS

If two or more persons conspire to injure, oppress, threaten, or intimidate any citizen in the free exercise or enjoyment of any right or privilege secured to him by the Constitution of laws of the United States, or because of his having so exercised the same; or

If two or more persons go in disguise on the highway, or on the premises of another, with intent to prevent or hinder his free exercise or enjoyment of any right or privilege so secured-

They shall be fined not more than $10,000 or imprisoned not more than ten years, or both; and if death results, they shall be subject to imprisonment for any term of years or for life. p.21

CASES CITED

Page

Archibald vs. Pan American Airways, Inc., 479 F. 2d 1356 .....A23,16

Cort vs. Ash, USLW (June 17, 1975)..... 18

Nader vs. Allegheny Airlines Inc., 96 S. Ct. 355..... 17

U. S. vs. Brooks, U. S. District Court of Delaware, Criminal Action 76-136, not yet reported 21

Polansky vs. Trans World Airlines, Inc., United States Third Circuit Court of Appeals (75-1088 and 75-1655)..... 17

Willis vs. Trans World Airlines, Inc., 200 F. Supp. 360, 365 (S. D. Cal. 1961) 17,18

AUTHORITIES CITED

Frantz, Albert T., Former Chief Justice of the Supreme Court of Colorado, How Courts Make Decisions 16,20

Webster's Dictionary 19

STATEMENT OF THE CASE

Petitioner purchased a Greyhound Ameripass for One Hundred and Sixty Five ($165.00) Dollars from a travel bureau, authorized agent of Defendant. This pass permitted virtually unlimited travel throughout the United States and Canada for thirty (30) days. The contract required holder produce identification upon request of Defendant's agents. Petitioner was forced to produce identification in Dayton, Ohio in order to continue on his journey. For the first twenty (20) days Defendant honored the pass some twelve to fourteen times at various terminals including the one where later the same day Petitioner was denied permission to board the bus.

Arriving in Los Angeles, California in the morning on September 20, 1974 Defendant honored the Ameripass for a trip to Hollywood.
Agent told Petitioner that he would be issued a new pass book upon his return back to L. A., Petitioner had only one coupon left which was for the return trip from Hollywood to L. A.
Upon his return to L. A. several hours later

Petitioner approached a ticket clerk and his pass book was confiscated. The clerk asked for no identification as Defendant's rules called for. Petitioner requested that manager be paged.

Two men came up to Petitioner and identified themselves as terminal managers. As Petitioner attempted to explain his plight one of the men, after about two minuted and not having asked for identification though Petitioner was attempting to show him same, walked over to the clerk'window and returned handing the Petitioner his pass book cover stamped "VOID."

Petitioner continued his attempt to reason with manager, asked him to call their Philadelphia terminal, original issuer of pass, attempted to show him receipt from travel agency and asked him to contact the agency, but to no avail. Managers actions were in violation of Defendant's own rules which state that a check was to be made and a request for identification was part of the Ameripass contract. Armed, uniformed men stood a few feet behind Petitioner while this event took place. Despite a request by Petitioner that

this be discussed in private the manager insisted on continuing this action before hundreds of terminal customers.

Realizing that he was three (3000) thousand miles from home, though ten days remained on the contract, and getting no place with the manager, Petitioner asked members of the public where another bus lines terminal was located. As he was leaving he asked the manager how he was to return home and the manager told him that this was a problem for Petitioner to solve. Petitioner took his luggage two or three blocks over to a Trailways' terminal, paid One Hundred and Thirteen Dollars and Fifteen Cents ($113.15) for a ticket and rode continuously for three days and nights before reaching his home, Philadelphia, Penna.

Several days after his return he had to make an emergency hospital visit where his B.P. was found to be abnormally high 160/120 and it took a long period of time for medical treatment to get it under control. Upon gaining no satisfaction from Defendant in Philadelphia, they

had no report of incident, mail they sent to their L. A. terminal was returned to them because of a wrong address, so they told Petitioner, Petitioner filed suit in Federal District Court.

After two days of court proceedings discrimination changes brought under 316 (d) were dismissed when Defendant's motion for a directed verdict was granted. The pendant claim, breach of contract, brought under F.R.C.P., was dismissed without prejudice, the court stating that this was being done on agreement of both parties and stated further that this was because the Petitioner did not wish to proceed on this point alone in Federal court. Petitioner had no knowledge of this agreement.

Counsel abandoned Petitioner totally after District Court Proceedings also informing him that sixty (60) days was timely for filing an appeal. Petitioner was forced to overcome this misinformation and proceeded pro se in the Court of Appeals. The petition for rehearing, IN BANC, was denied.

In the District Court the judge stated that case law of U.S.C. 49 Section 1374 (b) would be used in the present case because the language of both Sections, 316 (d) the other Section, was the same.

REASONS FOR GRANTING THE WRIT

I

CERTIORARI SHOULD BE GRANTED BECAUSE PETITIONER WAS DENIED DUE PROCESS OF LAW ON SEVERAL GROUNDS:

1. Evidence and witnesses proper and material to his side of the case was suppressed, and the Court having knowledge of this fact failed to followthe guidelines spelled out in Federal Rules of Evidence, Rule 103(2), offer of Proof. Counsel for Petitioner informed the Court that he had violated the five (5) day rule concerning the timely issuance of subpoenas Appendix p.20. Among suppressed evidence and testimony, of which the Court had knowledge as it was discussed in Court were: hospital records of emergency room visit of petitioner shortly after he arrived back in Philadelphia, Appendix p. 14 ; his physician and the hospital

custodian of record; offical of travel agency, authorized agent of defendant, where Ameripass was purchased.

2. Final Pre-Trial Order was not enforced- of a total twelve witnesses scheduled to appear, including an expert medical witness for petitioner, only petitioner gave testimony, Appendix 7-9 . Petitioner's physician explained why he did not appear though willing, Appendix p.13 , hospital record attached.

3. Stipulation- Counsel entered this without the knowledge or consent of Petitioner and had his consent been asked he would not have agreed.

4. Disposition of pendant claim- The Court stated that it was using, as the basis for dismissing without prejudice this claim, an agreement between the parties. It was stated that this was being done because the Petitioner did not want to proceed on this basis alone. Petitioner was not a party to this agreement, had not been consulted, had no knowledge of it, and had he been consulted would not have agreed.

5. Counsel abandoned Petitioner totally after the District Court proceedings informing Petitioner that sixty(60) days was timely for filing an appeal. Several days later Counsel's associate called a third party leaving a telephone message to be given to Petitioner. The message that sixty(60) days was timely for filing an appeal, whereas F.R.A.P.(Rule 4(a) states that thirty(30) days is timely.

6. Motions by two parties to file brief's of amicus curiae (briefs conditionally filed with motions) F.R.A.P. 29, were submitted to the Court of Appeals on June 7, 1976, no response in opposition. As of the present time "...no order has been entered by the Court" (A 10). This is stated in the Court's letter of November 23, 1976 in reply to Mrs. Hill's inquiry as to the state of her motion to file a brief of amicus curiae concerning the telecall mentioned above. Both amicus briefs were in support of Petitioner. The other brief was by the travel agency offical and concerned the the service of his subpoena.

Though their motions have not been acted on they receive Court documents stating that they are parties. They received letters from the Court dated June 24, 1976 stating in part; ".... Pursuant to provisions of Rule 11(1) of this Court(rules of the Third Circuit Court of Appeals) you may assume that this motion will be considered on your papers....."(A16). They also received documents concerning the denial of rehearing IN BANC on December 11, 1976(A12).

Petitioner respectfully submits that certiorari be granted by this Court because of violations of violations of his constitutional right of due process of law, deprived of the opportunity to present his case fully.

II

CERTIORARI SHOULD BE GRANTED BECAUSE THE COURT DID NOT ADDRESS ITSELF TO THE ISSUES AT HAND AND LEFT MANY QUESTIONS UNANSWERED.

There was agreement between the parties that case law under Section 1374(b) U.S.C. 49 would control the outcome of the present case. The Court in addition to being a party to this

agreement stated: "Now this language, part of which I have just read to you, Section 316(d), is exactly the same as the language in another statute which is 49 United States Code, Section 1374(b). Now that Section has been interpreted a number of times by Federal Courts." (A23).

The Court continues by discussing Archibald v. Pan American Airways, Inc.,supra, which would support Petitioner's claim that he was "enmeshed in the same similar circumstances", How Courts Make Decisions,supra.

One question of exceptional importance left unanswered: What was the intent of Congress in using the same language in both sections, 316(d) and 1374(b)? Obviously its intentions were to potect the individual from the same similar discriminatory acts whether he be traveling by carrier regulated by the Interstate Commerce Act or by the Federal Aviation Act. A statute is determained by its content and not by its title and both statutes do have the same content and language.

Unanswered was whether Defendant's contract

with Petitioner was discriminatory denial of access according to Polansky because of the "burden" it placed on the Ameripass class passenger but not required of the general bus riding public. The "burden" was that it was required of Ameripass class passenger that: "Upon request of.....authorized representative of Greyhound Lines....., the traveler must present acceptable identification....." This clearly, according to Polansky, is one form of discrimination under the language of both statutes and further, Petitioner was forced to submit to this in Dayton, Ohio bus terminal. Defendant's act of refusing to permit Petitioner to board bus was left hanging as to whether it was discriminatory denial of access of form described by Polansky. Since this last act occurred three thousand miles from Petitioner's home, no offer of alternate transportation,Willis and Nader, in violation of Defendant's, and his association's

rules this act was done with malice. Defendant has removed this identification "burden" from his contract. (A 18).

The Court did not answer whether Defendant violated his own rules or whether he has demonstrated approval of the conduct of his agents, **Willie**, supra.

In Polanskysupra. the Third Circuit leaned heavily of Cort v. Ash, supra, in establishing that for violation of the language of Section 1374(b) ther existed a cause for private action. This being the situation the **question** becomes: How in this same Circuit can the same language, same similar circumstances envolved, be interpreted or looked at differently?

Petitioner respectfully submits that this Court grant certiorari in order to resolve the conflict between decisions of Courts below and other Courts including Third Circuit Court of Appealss and the Supreme Court and to provide guidance to the lower Courts on recurring

practical problems in the administration of justice.

III

CERTIORARI SHOULD BE GRANTED BECAUSE THE COURT STATED THAT ITS JUDGEMENT WAS INCONCLUSIVE AND THE JUDGEMENT WAS INCONCLUSIVE.

The Court had this to say about its own **procedure** and judgement: " I don't like to see any of my cases wrapped up, sort of,in an inconclusive manner, but that's exactly what the law requires us to do." (A 21). "This I might add, (is) a very unusual way to try a case,... (A 21). The Court was speaking here of the witnesses and hospital records not being in the court room.

Webster, supra, defines inconclusive as: "not settling a point or question, not reaching or afforcing any ultimate conclusion or decision, hesitatingly, ineffective...."

The Court after stating that case law for 1374(b) would be used. seemed to follow this logic early in the proceedings, but later

waivered, possibly this was one reason the Court admitted that its judgement was inconclusive, that it was in fact making no judgement in the present case.

Judge Albert Frantz, **supra**, states "that decisions should have some finality and answer the question at hand"**this** is on page 3 of his book. In his book, on page 5, he states that: "Courts should treat all persons alike who are enmeshed in the same similar circumstances"

A judgement is a judical declaration by which the issues are settled. The Court was stating, in fact, that it was not following, and it did not follow, these guidelines in the present case. If a judgement is ambiguous it is not valid and this, by the declaration of the Court itself, is what exist in the judgement of the Court in the present case.

Petitioner respectfully submits that certiorari should be granted by this Court because a valid judgement settling the issues was not handed down.

IV

CERTIORARI SHOULD BE GRANTED BECAUSE THE CIVIL RIGHTS OF WITNESSES WERE VIOLATED WHEN THEY WERE DEPRIVED OF THEIR RIGHT TO GIVE TESTIMONY.

These rights are guaranteed under U.S.C. 18 Section 241 and under U.S.C. 42 Section 1985 (2) and 42 U.S.C. 42 Section 1986. A most recent case in the Delaware District Court of the Third Circuit, U. S. vs. Brooks, Criminal Action No. 76-136, not yet reported, would apply to the present case concerning witnesses being denied their right to testify.

Petitioner resectfully submits that certtirari should be granted **because of** serious questions concerning Petitioner's right to build a factual record before a trial Court in order to demonstrate the merits of his case. Petitioner seeks nothing more than a day in court and the Courts below erred in refusing to allow him an opportunity to prove his case fully and

completely.

CONCLUSION

For the reasons stated above certiorari should be granted.

Respectfully submitted,

Charles G. Morrow

Petitioner, pro se

P. O. Box 13041

Philadelphia, Pa. 19101

APPENDIX

UNITED STATES COURT OF APPEALS

FOR THE THIRD CIRCUIT

No. 75-2331

CHARLES G. MORROW,

Appellant

vs.

GREYHOUND LINES, INC.

Pursuant to Rule 41(b) of the Federal Rules of Appellate Procedure, it is ORDERED that issuance of the certified judgement in lieu of formal mandate in the above cause be, and it is hereby stayed until December 27, 1976.

Aldisert (signature)

Circuit Judge

Dated: November 26, 1976

UNITED STATES COURT OF APPEALS

FOR THE THIRD CIRCUIT

No. 75-2331

CHARLES G. MORROW, Appellant

v.

GREYHOUND LINES, INC.

SUR PETITION FOR REHEARING

Present: SEITZ, Chief Judge, and VAN DUSEN, ALDISERT, ADAMS, GIBBONS, ROSENN, HUNTER, WEIS and GARTH, Circuit Judges, and MEANOR, District Judge.

The petition for rehearing filed by

Appellant

in the above entitled case having been submitted to the judges who participated in the decision of this court and to all the other available circuit judges of the circuit in regular active service, and no judge who concurred in the decision having asked for rehearing, and a majority of the circuit judges of the circuit in regular active service not having voted for rehearing by the court in banc, the petition for rehearing is denied.

By the Court,

Aldisert (signature)

Judge

Dated: November 18, 1976

UNITED STATES COURT OF APPEALS

FOR THE THIRD CIRCUIT

No. 75-2331

CHARLES G. MORROW,

Appellant,

v.

GREYHOUND LINES,INC.

Appeal from the United States District Court

for the Eastern District of Pennsylavinia

(D.C. Civil Action 75-413

Submitted Under Third Circuit Rule 12(6)

October 18, 1976

Before: ALDISERT and GIBBONS, Circuit Judges,

and MEANOR, District Judge.

JUDGEMENT ORDER

After consideration of all contentions raised by appellant, it is

ADJUDGED AND ORDERED that the judgement of the district court be and is hereby affirmed.

Cost taxed against appellant.

BY THE COURT,

Aldisert (signature)

Circuit Judge

Attest:

Thomas F. Quinn (signature)

Thomas F. Quinn, Clerk

DATED: October 19, 1976

IN THE UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF PENNSYLVANIA

CHARLES MORROW :
:
V. : CIVIL ACTION NO. 75-413
:
GREYHOUND LINES, INC. :
:

CIVIL JUDGEMENT

BEFORE RAYMOND J. BRODERICK, J.

AND NOW, this 15th day of September 1975, in accordance with Defendant's Motion for a Directed Verdict on Count #1,

IT IS ORDERED that Judgement be and the same is hereby entered in favor of the Defendant, GREYHOUND LINES, INC. and against the plaintiff, CHARLES MORROW, with cost.

IT IS FURTHER ORDERED that Count #2 of the Complaint of Charles Morrow against Greyhound Lines, Inc. is hereby DISMISSED without prejudice, pursuant to agreement of the parties

BY THE COURT:

ATTEST: Joan Watson(signature)

Civ 1 6/72

IN THE UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF PENNSYLVANIA

CHARLES G. MORROW (Edward is crossed out)

Plaintiff(s) :
Civil Action
v. :
No. 75-413
GREYHOUND LINES, INC. :

Defendant(s)

FINAL PRE-TRIAL ORDER

"....

the following order is entered:

PART I: WITNESSES, DEPOSITIONS, ANSWERS TO INTERROGATORIES AND PLEADINGS

"....

A. Plaintiff's Witnesses

1. The plaintiff intends to call the following witnesses in regard to liability:

Mr. Griffin, President of Rodgers Travel Bureau

-Mr. Edward G. Morrow

2. The plaintiff intends to call the following witnesses in regard to damages:

Custodian of Records

Dr. Titus, AFL-CIO Clinic

"....."

B. Defendant's Witnesses

1. The defendant intends to call the following witnesses in regard to liability:

B. J. Williams

Copeland

Marco A. Peralis

W. D. Quig B. A. McCarter

R. J. Borland

V. J. Rizzuto

Irving Early

3. The defendant intends to offer into evidence the following portion(s) of the deposition, pleadings and/or answers to interrogatories:

Charles G. Morrow, pp. 5-12, 19-22, 27, 31-36, 39-40, 46-47, 50-57, 59, 61-62, 63-69, 71-76

"....."

C. Expert Witnesses ....."

1. Plaintiff's expert witnesses are:

Dr. Titus AFL-CIO clinic

"....."

Ammendments to this Pre-Trial Order will not be permitted except where the Court determines that manifest injustice would result if the amendment is not allowed.

David L. Marshall(signature)

(Attorney for Plaintiff)

Albert S. Shaw(signature)

(Attorney for Defendant)

Raymond J. Broderick(sig.)

Raymond J. Broderick, J.

(Date)

OFFICE OF THE CLERK
UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT
21400 UNITED STATES COURTHOUSE
INDEPENDENCE MALL WEST
601 Market Street
Philadelphia 19106

Thomas F. Quinn — Telephone
Clerk — 215-597-2995

November 23, 1976

Ms. Cleo V. Hill
643 N. 56th Street
Philadelphia, Pa. 19131

Re: Charles c. Morrow, Appellant vs. Greyhound Lines Inc. No. 75-2331

Dear Ms.Hill:

This is in reply to your letter of November 22, 1976, requesting what the status is of your motion for leave to file brief amicus curiae in in the above-entitled case? As of this date,no order has been entered by the Court.

Very truly yours,

T. F. Quinn/ags(signature)

T. F. Quinn, Clerk

ags

OFFICE OF THE CLERK

UNITED STATES COURT OF APPEALS

FOR THE THIRD CIRCUIT

21400 UNITED STATES COURTHOUSE

INDEPENDENCE MALL WEST

601 Market Street

Philadelphia 19106

Thomas F. Quinn — Telephone

Clerk — 215-597-2995

November 18, 1976

Re: Charles c. Morrow, Appellant vs. Greyhound Lines, Inc. No. 75-?331

Gentleman:

Enclosed herewith is conformed copy of order entered by the Court today in the above-entitled case.

Very truly yours,

T. F. Quinn(signature)

T. F. Quinn, Clerk

dn

Enclosure

Copies to all parties

JOHN F. KENNEDY MEMORIAL HOSPITAL

Langdon St. & Cheltenham Ave.

Philadelphia, Pa. 19124

CUmberland 9-6000

July 2, 1976

Re: Charles G. Morrow, Appellant vs Greyhound Lines, Inc. No. 75-2331

Mr. Charles G. Morrow, who has been under my care for about three(3) years, for essential hypertension, was involved in an incident with Greyhound on Sept. 20, 1974.

Since the incident had been suffering violent headaches and dizziness. On October 11, 1974 he went to the EOR of John F. Kennedy Hospital and his blood pressure was up to 160/120. He was given medication for his blood pressure but it remained high for about four(4) months. It was still ranging between 170/90 and 160/100.

In March of 1975 we had the blood pressure down to 140/90 and 130/90.

I agree that the Incident had seriously contributed to aggravate this gentleman's medical problems.

On September 15, I received a subpoena to appear in court on behalf of Mr. Morrow. I contacted Mr. Morrow's lawyers and promised them that I would appear in court if called. To date I have never heard from them.

Very truly yours,

Laborde E. Titus(signature)

Laborde E. Titus, M. D.

Attacment: one(1) record of emergency visit to John F. Kennedy Hospital

---

JOHN F. KENNEDY MEMORIAL HOSPITAL

EMERGENCY DEPARTMENT RECORD

Date: 10/11/74 Time: 12:45 pm

A9972 V

Morrow, Charles #105300

PATIENT COMPLAINT OF ILLNESS:

Pt. c/o pain in head since this A.M. Pt c/o of frequent headaches and eyes bother him. Pt. has high blood pressure and takes meds. Denies Allergies. Physical findings· Temp-98: Pulse-80: Blood Pressure: 160/120. Doctors Orders· Rx Lib-riun and Hydropress. Consult his physician.

OFFICE OF THE CLERK

UNITED STATES COURT OF APPEALS

FOR THE THIRD CIRCUIT

21400 UNITED STATES COURTHOUSE

INDEPENDENCE MALL WEST

601 Market Street

Philadelphia 19106

Thomas E. Quinn
Clerk

Telephone
215-597-2995

June 24, 1976

Irvin E. Early, Manger

Rodgers Travel Bureau

5206 Chestnut Street

Phila., Pa. 19139

Re: Charles G. Morrow, appellant

vs.

Greyhound Lines, Inc.

No. 75-2331

Dear Mr. Early:

Receipt is acknowledged on June 7, 1976 of 4 copies of Motion by Irvin E. Early, Manager Rodgers Travel Bureau, Inc., for leave to file a brief Amicus Curiae with proof of service in

in the above-entitled case.

By copy of this letter, receipt is acknowledged on June 7, 1976 of 4 copies of Motion by Cleo V. Hill for leave to file a brief Amicus Curiae with proof of service in the above-entitled case.

The above motions were delivered to this office by the appellant, Charles G. Morrow.

Pursuant to the provisions of Rule 11(1) of the Rules of this Court, you may assume that the motion will be considered and decided on your papers, and on any response which may be timely received, and that no oral argument will be heard unless you are so advised.

In the event that the Court or a Judge thereof request oral argument, counsel will be notified as promptly as possible and will be expexted to be present at the appointed time.

Very truly yours,

T. F. Quinn(signature)

T. F. Quinn, Clerk

fm

Ms. Cleo V. Hill
643 N. 56th Street
Phila., Pa. 19131

Mr. Charles C. Morrow
P. O. Box 13041
Phila., Pa. 19101

Albert S. Shaw, Jr., Esq.
Montgomery McCracken Walker & Rhoads
Three Parkway
Phila., Pa. 19102

AMERIPASS (brochure)

IMPORTANT CONDITIONS OF PURCHASE AND USE

".....

Upon request of any driver or other authorized representative of Greyhound Lines or participating carriers, the traveler must present acceptable identification properly identifying pass holder as the original purchaser....."

==========

THE EVENING BULLETIN TUESDAY, SEPTEMBER 9, 1975

".....

And you don't have to.....show us any kind of credentials to enjoy this great travel value....."

GREYHOUND

MORE THAN EVER WE"RE

IN TOUCH WITH AMERICA

86a

The Court· May I just interrupt and say that this motion is now being made on the record with the understanding and agreement of both counsel that the plaintiff has completed his testimony, but the plaintiff has under subpoena other witnesses and we have recessed until 2:00 o'clock for these other witnesses to come in.

One of them is a doctor who would be a witness as to damages and the other one is the hospital records.....

A third witness that he was hoping to get is a man from the travel agency who would present some testimony concerning his authority to write the ticket.

I am wondering whether the statement by some courts that the burden shifts, as it were, on the defendant to show that what they did was, in effect, reasonable or in accordance with some policy whether sufficent (evidence) has been shown to that point to shift the burden to Greyhound to show why they stamped this man's

pass void.

108a

The Court: Mr. DeMarco you may be at that stage I was asking Mr. Shaw about and that was as to whether or not the plaintiff has offered sufficient (evidence) to throw the burden over to the defendant to explain his conduct.

111a

Mr. DeMarco (Appellant's counsel): We didn't subpoena them within the rules, in five days. We didn't have the five days.

113a

The Court: Now were you able to get those records?

Mr. DeMarco: They will be available. They are supposed to be available.

The Court: Yes but where are they?

Mr. DeMarco: We don't need ther with the doctor.

124a

The Court: But that part of the case is not going to proceed in this court because both parties have agreed not to proceed. The plaintiff

didn't want to proceed on that basis alone and the defendant agreed that he would withdraw that without prejudice or to mark it withdrawn without prejudice.

Notes of Testimony, page 187

The Court: I don't like to see any of my cases wrapped up in an inconclusive manner, but that's exactly what the law requires us to do.

83a

The Court: Well, I will give you until 2:00 to get these people in.

This I might add (is) a very unusual way to try a case but I will give you that opportunity ans we will recess until 2:00.

Notes of Testimony, page 159.

Mr. Marshall (Appellants counsel)....., but I don't think we should open up the floodgates right now.

119a-120a

The Court: Now I want to explain to you what that is and why (the directed verdict). Count I of the plaintiff's complaint alleged a cause of action under 49 United States Code, Section

316(d). Now 49 United States Code, Section 316 (d) states, and incidentally, I want to explain this to you so you would know what happened here, in the pertinent parts that it will be unlawful for any common carrier by motor vehicle engaged in interstate or foreign commerce to make, give, or to cause any undue or unreasonable preferance or advantage to any particular person, port, gateway, portal, region, territory or description of traffic in any respect whatsoever, or to subject any particular person, port, gateway, locality, region, district, territory, or description of traffic to any unjust discrimination or any undue or unreasonable prejudice or disadvantage in any respect whatsoever.

Now this was the alleged jurisdiction or ground on which plaintiff brought his action into this Court. That was the federal question that was presented to this judge in the complaint because it is a United States statute. a statute passed by the Congress of the United States.

Now this language, part of which I have just read to you, Section 316(d), is exactly the same as the language contained in another statute, which is 49 United States Code, Section 1374(b)..

Now that Section 1374(b) has been interpreted a number of times by Federal Courts and it is this statute and the language that I am talking about is that clause about it shall be unlawful for any common carrier by motor vehicle engaged in interstate commerce or foreign commerce to make, give, or cause any undue or unreasonable preferance or advantage to any particular individual, and then it goes on to say,or subject any particular person to any unjust discrimination or any undue or unreasonable prejudice or disadvantage.

That language has been interpreted, and particularly I want to refer to one case, which is Archibald vs. the Pan-American World Airways, Inc., which appears in 460 Federal Reporter 2d, 14, decided in 1972, in the Ninth Circuit.

Supreme Court, U. S.
FILED
JAN 18 1977
MICHAEL RODAK, JR., CLER

IN THE

SUPREME COURT OF THE UNITED STATES

October Term, 1976

No. 76-833

CHARLES G. MORROW, Petitioner

vs.

GREYHOUND LINES, INC., Respondent

ON WRIT OF CERTIORARI

TO THE UNITED STATES COURT OF APPEALS

FOR THE THIRD CIRCUIT

PETITIONER'S REPLY BRIEF

Charles G. Morrow

Petitioner, pro se

P. O. Box 13041

Philadelphia, Penna. 19101

IN THE

SUPREME COURT OF THE UNITED STATES

October Term, 1976

No. 76-833

CHARLES G. MORROW, Petitioner

vs.

GREYHOUND LINES, INC., Respondent

ON WRIT OF CERTIORARI

TO THE UNITED STATES COURT OF APPEALS

FOR THE THIRD CIRCUIT

PETITIONER'S REPLY BRIEF

Petitioner files this brief as permitted by Rule 24(4).

I

THE PETITION FOR A WRIT OF CERTIORARI DOES SET FORTH MANY MERITORIOUS GROUNDS FOR REVIEW BY THIS COURT.

According to Rule 19(1)(b), Rules of this Court, the Petition sets forth many grounds for review by this Court:

1. The Third Circuit Court of Appeals in the present case handed down a judgement in conf ict with its own recent judgement in Polansky. The judgement was also in conflict with Willis and with Archibald. All of the above mentioned cases are cited in the Petition for a Writ of Certiorari.

2. The decision in the present case is also in conflict with applicable decisions of the Supreme Court, Cort vs. Ash and Nader vs. Allegheny Airlines, Inc. The above mentioned cases are cited in the Petition for a Writ of Certiorari.

3. The Court of Appeals departed from the accepted and usual course of judicial proceedings (Petition for a Writ of Certiorari pp.14-15(No.6), A10-A11, A12, A15-A17).

4. The Court of Appeals by its judgement sanctioned the departure from the accepted and usual course of judicial proceedings by the trial Court. These numerous departures are stated in the Petition for a Writ of Certiorari and in its Appendix.

The departures under three(3) and four(4) above were such and so numerous as to call for an exercise of this Courts power of supervision.

CONCLUSION

There are many meritorious grounds for review by this Court therefore certiorari should be granted.

Respectfully submitted

Charles G. Morrow

Petitioner, pro se

P. O. Box 13041

Philadelphia, Penna. 19101